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UNITED NATIONS DECADE OF
INTERNATIONAL LAW

SECURITY COUNCIL
Fifty-first year

Letter dated 14 March 1996 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to write to you to request that the attached document, containing the statement made on 6 March 1996 by Mr. Ricardo Alarcón de Quesada, President of the National Assembly of People's Power of the Republic of Cuba, to the Council of the International Civil Aviation Organization, be circulated as an official document of the General Assembly at its fiftieth session, under item 140, and of the Security Council.

(Signed) Bruno RODRIGUEZ PARRILLA
Ambassador
Permanent Representative of Cuba
to the United Nations

Annex

ANNEX

Statement by Ricardo Alarcon, President of the National Assembly of People's Power of the Republic of Cuba, to the Council of the International Civil Aviation Organization

6 March 1996

It has not been easy for my delegation to get here because it represents a country that has been suffering, for more than 30 years, from a cruel economic blockade which, inter alia, prevents it from having access to certain air routes in this region. Our direct scheduled flights to this city of Montreal are forced to deviate from what would be their normal route, with the inevitable consequences that this has in cost and time, because they are not allowed to overfly the territory of the United States.

Paradoxically, I also represent the country through whose air corridors nearly 400 scheduled commercial flights pass each day, to which our aeronautical services always provide the necessary support and cooperation. Day after day, thousands of United States citizens fly without risk or difficulty through Cuban skies. Not once has there been any incident that has affected civil transport through Cuban airspace. In short, we are one of the countries of Latin America and the Caribbean which provides the most aeronautical services to the airlines and travellers of the country which, however, not only maintains a blockade against us but also obstructs the normal development of Cuban activities in this area and from whose territory, furthermore, hostile, piratical acts that violate international navigation regulations are launched against my country; this has been happening for many years and it is still happening today.

The first preambular paragraph of the Convention on International Civil Aviation signed at Chicago on 7 December 1944, states that "the future development of international civil aviation can greatly help to create and to preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security" [emphasis added].

As can be seen, in order for international civil aviation to develop harmoniously and properly, it is necessary not only to apply all the regulations and recommendations which the International Civil Aviation Organization (ICAO) establishes to regulate such aviation but also to prevent the occurrence, in the area of international aviation, of acts inconsistent with its purposes, which might endanger it and threaten general security.

For many years Cuba has been subjected to violations of its sovereignty and territorial integrity involving the use of aircraft originating in United States territory, in violation of the rules of international law, and in particular of articles 1, 2 and 4 of the Chicago Convention.

The aircraft used for the perpetration of these aggressive acts have, on many occasions, been aircraft designed for civilian purposes, although, as in the specific case of the models used in the most recent provocations, they can

also be used for military purposes and, indeed, were used in the war against Viet Nam.

For a number of years, light aircraft registered in the United States and operated by an organization calling itself "Brothers to the Rescue" have been operating within the Havana flight information region (FIR) and on many occasions have penetrated Cuban territory without prior authorization for purposes that were clearly illegal and incompatible with the letter and spirit of the Chicago Convention. Although the real purpose of their missions has always been to undermine Cuban sovereignty and engage in subversion, initially they claimed to be involved in so-called rescue operations which, in any case, are a public function of a State, and, in the case of the United States, are not the responsibility of private individuals but part of the Coast Guard's normal work.

During the past 20 months, these aircraft, originating in the territory of the United States, have violated Cuban airspace 25 times. In every case, each violation has been officially reported to the authorities of that country.

In September 1994, during a bilateral meeting between representatives of the civil aviation administrations of Cuba and the United States, Cuba provided reports which showed that on a number of previous occasions those aircraft had penetrated inside Cuban territorial airspace. At that meeting, the United States expressed its concern about those events and acknowledged that those flights also constituted a threat to the safety of the genuine rescue efforts carried out by the United States Coast Guard.

Shortly thereafter, on 10 November 1994, two Cessna-337 aircraft took off from Guantánamo Naval Base, flew over the extreme eastern part of Cuban territory and dropped subversive leaflets on it.

On 4 April 1995, a Cessna-337 penetrated Cuban territorial waters north of the city of Havana and flew more than 40 kilometres along the coast at a distance of between 5 and 10 nautical miles from the coast.

On 13 July 1995, aircraft of "Brothers to the Rescue" penetrated over Cuban territorial waters north of our capital, entered prohibited zone MU-P1 and overflew over the city at very low altitude, dropping leaflets and behaving in a dangerous and careless manner.

Each and every one of these violations was reported to the United States authorities, who were also warned of Cuba's decision to defend its sovereignty and protect its territorial integrity; they were also reminded that they had an obligation to prevent and avoid actions that were clearly contrary to international law and to the Chicago Convention. Unfortunately, our protests and warnings fell on deaf ears and, as events have shown, the provocateurs were emboldened by their impunity and the provocations became more frequent and more intense.

With regard to the incident provoked on 24 February 1996, attempts have been made in various news media and in official statements arbitrarily to equate the acts carried out against Cuban territory with legitimate civil aviation

activities. However, a simple examination of the facts and of their background and context clearly show this claim to be without foundation.

In the specific case of the provocations and acts carried out by the gang called "Brothers to the Rescue", it is clear that, from the outset, they have had nothing to do with the provision of a "scheduled service performed by aircraft for the public transport of passengers, mail or cargo", as article 96 of the Chicago Convention defines air service.

Since it was established, this group has had as its purpose to carry out acts against the sovereignty and territorial integrity of the Republic of Cuba, including acts of a subversive nature using military means or means of destruction. Such acts, which are part of a long history of armed actions taken against Cuba by small aircraft from the North, have been the subject of numerous complaints by the Cuban authorities to the authorities of the United States, from whose airports those aircraft had come.

Furthermore, in the course of these actions, this gang's aeroplanes have committed a series of violations of international air regulations and those of the United States itself which could have endangered normal international civil aviation activity in this area. The United States authorities themselves had prior knowledge of some of these violations and informed our authorities of them. For example, in note 577, dated 18 October 1995, the United States Government informed the Cuban Government that on 21 October members of this group were intending to approach the boundaries of Cuban airspace in order to transmit short wave television and radio signals to Cuba from ships located outside Cuban territorial waters for about one half hour. In the same note, it was pointed out that United States officials had advised the organizers of the fleet of the provisions of international law and United States law with regard to unauthorized transmissions from ships or aircraft registered in the United States and had urged them not to issue illegal transmissions.

Even earlier, in a note from the Department of State on 28 August 1995, the Government of Cuba was informed that the Federal Aviation Administration (FAA) was investigating the possible violation of Annex 2 to the Convention on International Civil Aviation by Mr. José Basulto, the person chiefly responsible for the so-called "Brothers to the Rescue" group, and on 5 October of the same year, by note 553 from its Interests Section at Havana, it reported that the Federal Aviation Administration accused José Basulto, a leader of the "Brothers to the Rescue" group, of violating federal aviation regulation 91.703 by piloting an aircraft registered in the United States within a foreign country without complying with the regulations of the country and regulation 91.13 by piloting an aircraft in a negligent manner, endangering the lives and property of others. The same note added that the Federal Aviation Administration requested the Government of Cuba to provide evidence that could be relevant to those charges against Basulto.

On 16 February 1996, in addition to expressing thanks for the information supplied by the Government of Cuba, a note from the State Department informed Cuba that the Federal Aviation Administration was continuing its investigations on José Basulto, who was facing charges of violation of Federal Aviation Regulation 91.703.

As may be seen, the United States authorities were perfectly aware of the existence of a group organized in the territory of the United States, equipped with aircraft and involved in carrying out activities inconsistent with the provision of international air services, which uses those aircraft for patently political purposes, disregarding Cuban sovereignty and also ignoring the regulations of the very State in which those aircraft are registered and where its pilots had obtained licences to operate them.

In addition to armed actions, this group carried out serious provocations against Cuban territory, including the capital of the Republic, on 9 and 13 January 1996, dropping subversive propaganda calling for actions contrary to Cuban constitutional order. These provocations were officially reported by the Cuban Government to the United States Government, but they were also revealed publicly and ostentatiously in the news media in Florida by the very people who had carried them out. We have no alternative but to point out the inexplicable negligence of the United States authorities, which permitted the flights on those days in January by persons and aircraft which were the subject of an investigation begun five months earlier, on the basis of which the Federal Aviation Administration had initiated legal proceedings. Even more suspect is this negligent attitude, which allowed them to carry out new aerial incursions on 24 February, barely a week after sending us an official note reiterating the existence of such charges and thanking us for the cooperation which the Cuban authorities were showing to their United States counterparts.

Nevertheless, in the morning of 24 February, these Cessna 337 aeroplanes bearing registration numbers N-2506, N-5485S and N-2456S took off from Opa Locka once again, penetrated Cuban airspace north of the capital and returned to their point of departure in Florida. That same afternoon, these same aeroplanes took off from the same Florida airport again and headed for the City of Havana, penetrated dangerous areas located in the northern part of the Havana FIR, despite the warnings issued to them by the air traffic control centre, recklessly continued the flight and made a further incursion into Cuban territory. The intruder aircraft were intercepted by fighters from our Air Force, which warned them to withdraw. Two of them ignored the warnings of the interceptors and unavoidably provoked the well-known regrettable consequences.

Evidence of our restraint and of the moderation shown by our pilots is the leader of the aggressor squadron himself, who was able to exit from our territory and return to the United States safe and sound, since he, unlike the other pilots, had withdrawn from the national airspace.

It must be stressed that what we are dealing with here is not only hostile and provocative acts against the Republic of Cuba, as grave and illegal as they are, but also the fact that all the activities carried out by the so-called "Brothers to the Rescue" are violations of the standards which govern international civil aviation and may consequently endanger the lives and safety of many people and aircraft, which it is the fundamental obligation of the International Civil Aviation Organization to protect. This is clearly shown by the intention, denounced by the United States authorities themselves, to make radio and television transmissions from international airspace, but also, among others, by the alteration of the flight plans which must be submitted to the aviation authorities of the country of origin, by the use of their radio

communication facilities for purposes other than those for which they are intended and by their unauthorized, uncontrolled and unregulated presence for the purpose of realizing objectives other than the provision of international air service in an area where a sizeable amount of international civil aviation activity takes place and which is traversed by several of the most active international corridors in the western hemisphere. But there have also been other actions by these individuals directly aimed at third parties and in the face of which the attitude of the United States has been extremely benign: for example, the one reported on 28 February 1996 by the Los Angeles Times newspaper concerning the incident which occurred in June 1994, when a "Brothers to the Rescue" aeroplane piloted by Mr. Carlos Ernesto Gardner sliced off the mast of a civilian ship when it was sailing in the Straits of Florida. According to what leaked out, the only measure taken by the United States authorities in this case was the suspension of Mr. Gardner's licence for 90 days.

The United States refers to the incident of 24 February 1996 as if it were an isolated event, detached from the circumstances and the background against which it must necessarily be analysed.

Perhaps the provocateurs who violated Cuban sovereignty were unknown to the United States? Had they or had they not been charged by the United States authorities with their previous violations? Had they or had they not been warned by them previously?

But, in addition, where did the incident occur, near the United States border or in proximity to the Cuban capital?

For over three decades, Cuba has been subject to violations of its territory by aircraft coming from the United States, using United State airports and flown by pilots with licences issued by United States authorities which have allowed them to leave that country and return to it after committing their misdeeds. There have never been any such violations in the opposite direction, Cuba has never been a base for illegal operations against our neighbour's territorial airspace.

And if the situation had been the other way round? For how long would the United States have allowed its territorial integrity to be violated by a group of criminals? How many times would it have tolerated such acts of provocation if they had occurred over its capital city?

They are also trying to cover up the nature of the incident by describing those who provoked it as "civilians". This is a fallacious and dangerous stratagem that ICAO should not allow. What is fundamental and must be clarified in this matter is the nature of the activities of the so-called "Brothers to the Rescue" and the need to take urgent, stringent measures to put an end to their activities which are, among other things, a "misuse" of international civil aviation and, therefore, a threat to the safety of this vital service.

Neither in the Chicago Convention, in international or United States legal doctrine nor in practice are activities such as those carried out by the above group recognized as corresponding to the concept of civil aviation. The fact that it is not identified as the instrument of a State does not, in and of

itself, confer civil status on any aircraft unless the function it performs is restricted to and consistent with the aims clearly established in the Chicago Convention.

In an often cited article on the treatment of air intruders in recent practice and international law, United States international law Professor Oliver J. Lissitzyn states that, in cases where there is reason to believe that the intruder's intentions may be hostile or illicit, an order or warning to enter should normally be issued and the intruder may then be attacked if he disobeys. Among such illicit intentions he mentions aid to subversive activities, smuggling or a premeditated challenge to territorial sovereignty.

Professor Michael Nilde, a prestigious Canadian scholar and former Director of the Legal Bureau of ICAO, has put an end to any confusion by stating that it is not the aircraft's technical design, registry, ownership or crew that determines its nature, but the function for which it is used.

I do not wish to burden you with further quotations. I shall only say that there are many of them and that they might even include some judgements of United States federal courts. However, I should like to draw attention to something related to actual contemporary practice.

I am making available to members of the Council this document, which contains the written transcript of a programme broadcast on 5 January 1996 on the television news programme of the United States broadcasting corporation NBC. It describes what happened to some 100 small aircraft which were, of course, identified as "civil" but were suspected of links to drug trafficking. Some two dozen were shot down and many more destroyed on the ground. You will see from the transcript that some people think that the United States should not attack unarmed aircraft and that others fear that innocent people may have met with this kind of sudden death. According to the transcript, the United States is devoting some $120 million this year to this programme to shoot down and destroy small aircraft, in other words, a figure more than double the total budget of the International Civil Aviation Organization.

I do not wish to question the wisdom of this stringent programme against drug trafficking that the Government of the country that is the world's biggest consumer of illicit drugs is carrying out beyond its borders. I only wish to point to the inconsistency of the United States attitude in organizing and waging such drastic action against small, non-State aircraft, which are attacked without notice or warning, while at the same time trying to protect under the guise of "civil" aviation other aircraft which they know to be involved in equally illicit activities. Do the United States authorities not think that they should occasionally try to be consistent in their international policy? Has it not occurred to them that by tolerating illegality in their own territory, they run the risk of undermining their own interests?

Curiously, reference is being made to article 3 bis, which it is proposed be added to the Chicago Convention. Setting aside the question of the legal status of a proposal which has yet to receive the support required for it to enter into force, allow me to make some comments on the proposed text. First of all, it refers exclusively to "civil aircraft", the nature of which is clearly

defined in the Convention itself. Secondly, article 3 bis does not modify in any way the rights and obligations set forth in the Charter of the United Nations. However, it also establishes clearly the obligation of any civil aircraft to comply with an order given it by the State in whose airspace it is flying, and the obligation of the aircraft's State of origin to ensure compliance with that order and to punish violators severely. Paragraph (d) of proposed article 3 bis could not be clearer: "Each Contracting State shall take appropriate measures to prohibit the deliberate use of any civil aircraft registered in that State, or operated by an operator who has his principal place of business or permanent residence in that State, for any purpose inconsistent with the aims of this Convention."

On 1 March 1996, the United States Government issued precise orders designed, it was said, to put an immediate end to attempts to violate Cuban territorial airspace, and it deployed units of the Coast Guard and other means in an area of the Straits of Florida where the "Brothers to the Rescue" gang had announced that it would meet the following day. On that occasion, there was no attempt to violate our territory and presumably the United States authorities would have tried to prevent such an attempt.

The text of the Presidential statement and the provisions issued pursuant to it clearly imply recognition by the United States Government that violations had been occurring up until that time. In fact, if it was necessary to invoke the President's emergency powers and resort to an ostentatious show of force in the Straits, that was because the United States had long neglected its international obligations and proved incapable of enforcing even its own domestic regulations.

Even so, it has to be said that, on this latest occasion and in the presence of United States officials, the provocateurs again flouted international regulations by using their radio equipment to broadcast a religious ceremony over frequencies the sole legitimate purpose of which is to provide a necessary service to international civil aviation. In so doing, they arbitrarily and illegally placed such aviation at risk.

Cuba has requested this Council to investigate the serious violations of ICAO principles and standards of which our country has been the victim and which led to the 24 February 1996 incident. We are relying on the Council to take appropriate measures to conduct a thorough and rigorous investigation of these violations, their background and the circumstances in which they took place. We, for our part, officially pledge our full cooperation to that end and invite the Council to send a delegation to our country as soon as possible. At the same time, we demand that the United States authorities show the same willingness and that ICAO be permitted to conduct a meaningful and thorough investigation in the place where the problem originates, the acts of aggression come from, the crimes are planned and organized and international norms are flouted: in the United States.

Since 1959, the Republic of Cuba has been the object of constant acts of aggression and provocation in which small aircraft, as well as other means, have been used. Using this type of aircraft, Cuban citizens have been murdered or seriously injured, their homes or social facilities have been destroyed and

their sugar plantations have been burned. Small aircraft have been used to bring arms and explosives into Cuba, as well as biological agents which have caused serious harm to people and agricultural production. Small aircraft are well known to our people for what they have been: deadly weapons in a cruel, prolonged and dirty war. The very Government which is trying cynically to present such aircraft as doves of peace has been and continues to be responsible for that war.

It was from the same airport of Opa Locka from which today's terrorists come and go freely that, 35 years ago, aircraft departed to bomb Cuba when my country was invaded militarily at the Bay of Pigs. On that occasion, a moderate and intelligent man was placed in an embarrassing situation by his Government: then Ambassador Adlai Stephenson had the unpleasant task of claiming to the Security Council that the United States aggressor aircraft, flying with crudely altered markings, were Cuban aircraft. As you know, it was only a matter of days before that lie was exposed.

Now they are trying to confound the world again and to pass off hardened terrorists as peaceful travellers. Yet the aircraft currently piloted by the leader of the gang bears the identification number that was used by the band of mercenaries to which he belonged and which was overwhelmingly defeated at the Bay of Pigs.

Let that be a reminder to all of them: the terrorists, their backers and their accomplices. Any aggression will have to contend with a strong and united people who will know how to resist and overcome. Now, as then, mercenaries will always be defeated.

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NOTE VERBALE DATED 6 MARCH 1996 FROM THE PERMANENT REPRESENTATIVE OF ISRAEL TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Israel to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the Secretary-General's request of 22 January 1996 for the information called for in section 8 of resolution 748 (1992) and section 13 of resolution 883 (1993) with regard to Libya.

Israel wishes to inform the Secretary-General that it does not have, and has not maintained relations in any form whatsoever with Libya, nor does Israel hold assets or funds controlled by any private or public Libyan entities. Similarly, Israeli nationals do not engage in any type of economic transactions with Libya. Needless to say, Libyan Arab Airlines does not operate any offices in Israel nor do its aircraft or any other Libyan aircraft land in, depart from or overfly Israeli territory. Finally, Libyan nationals are not permitted to enter Israeli territory.

Consequently, Israel has at all times been in complete compliance with the aforementioned resolutions and has no need to institute specific measures regarding such compliance.

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15 March 1996

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NOTE VERBALE DATED 11 MARCH 1996 FROM THE PERMANENT REPRESENTATIVE OF LIECHTENSTEIN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Principality of Liechtenstein to the United Nations presents her compliments to the Secretary-General of the United Nations and, with reference to the latter's note SCA/10/96(1) dated 22 January 1996, has the honour to inform him that the Government of the Principality of Liechtenstein, in conformity with Security Council resolutions 748 (1992) and 883 (1993), has met the obligations set out therein by enacting two ordinances, of 21 April 1992 (LGBI. 1992 No. 36) and 8 February 1994 (LGBI. 1994 No. 8) respectively.*

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* Copies of ordinances may be consulted in room S-3520 I.

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LETTER DATED 15 MARCH 1996 FROM THE PERMANENT REPRESENTATIVE OF THE SUDAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Upon instructions from my Government, I have the honour to enclose herewith a comment by the Sudan on the Secretary-General's report contained in document S/1996/179 dated 11 March 1996.

I would be grateful if you could circulate it as a document of the Security Council.

(Signed) Ali M. O. YASSIN

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Annex

[Original: Arabic]

Commentary by the Sudan on the report of the Secretary-General pursuant to Security Council resolution 1044 (1996)

1. The Sudan has taken note of the report of the Secretary-General pursuant to Security Council resolution 1044 (1996), which was circulated in document S/1996/179 of 11 March 1996.

2. The Sudan expresses its gratitude to the Secretary-General for his report and its reflection of the views of the Government of the Sudan as conveyed to Mr. Chinmaya R. Gharekhan, Special Envoy of the Secretary-General, during his visit to the Sudan from 24 to 27 February 1996, but nevertheless finds itself obliged to comment on the statements made in that report.

3. Ever since the issue of the attempted assassination of Egyptian President Hosni Mubarak in Addis Ababa first arose, the Sudan has affirmed its strong condemnation of all forms of terrorism and of assassination attempts. Such condemnation came directly from the President of the Republic in Addis Ababa on the very day the incident occurred and also from its Minister for Foreign Affairs, who conveyed the Sudan's condemnation of the incident to his Egyptian counterpart when they were both attending the Assembly of Heads of State and Government of the Organization of African Unity (OAU) in Addis Ababa in June 1995. The Sudan has, moreover, frequently stated that it refuses to allow the use of its territory for any terrorist activities or activities directed against any other State, in accordance with its commitment to the principles of good-neighbourliness and non-interference in the internal affairs of other States and its firm conviction that the form of government of any State is to be determined by the people of that State alone and that no forces or grouping may be allowed to operate from outside that State with a view to changing its internal system of government.

4. The Sudan acceded to the Ethiopian request for the extradition of the three suspects by offering full cooperation, despite the fact that the request arrived more than one month after the incident occurred and thus adversely affected the chances of the early capture of the suspects and despite the fact that the information provided by Ethiopia together with its request was not sufficient for the arrest of those sought. The Sudan formed a high-level commission of inquiry that was assigned the task of searching for the suspects, and announcements were posted for the wanted suspects in all agencies and police stations. They were sought in residential neighbourhoods, hotels and all areas in which foreigners were reported to be living. As a result of the commission's action, a Khartoum Airport arrival card was obtained with a name that corresponded to that of one of the suspects, and it was handed over to Ethiopia, together with the commission's report, by a high-level delegation bearing a message from the President of the Republic to the Ethiopian President only ten days after receipt of the Ethiopian request. The delegation informed the Ethiopian authorities of the results obtained by the commission of inquiry and of the difficulty it faced as a result of the paucity of information provided by

the Ethiopian side concerning the three suspects. The delegation requested the Ethiopian authorities to furnish more precise information concerning the suspects and to send a team of Ethiopian investigators to assist the Sudanese team.

5. The Sudan's cooperation with the Ethiopian authorities stands as patent proof of its strong desire to settle this question, while it has become clear from Ethiopia's refusal to cooperate and from its withholding of the information needed by the Sudan in order to trace the suspects that its objective has not been to arrest the three suspects but to escalate and internationalize the issue in the service of the goals of outside forces endeavouring to incriminate the Sudan and fabricate charges that it is sponsoring terrorism. Ethiopia's statement that it "had overwhelming material and human evidence, which could not be divulged for reasons of security" testifies to the legitimacy of the Sudan's request to be furnished with additional information, just as it testifies to Ethiopia's involvement in withholding information from the Sudan with the goal of providing pretexts for targeting it.

6. Paragraph 6 of the report speaks of the fact that Security Council resolution 1044 (1996) expressed the Council's firm support for the OAU in its continued efforts to implement its decisions. The Sudan nevertheless expresses its regret that the Security Council resolution contradicts the statement of the OAU Mechanism for Conflict Prevention, Management and Resolution of 19 December 1995, particularly since the Council, in paragraph 4 (a) of its resolution, calls upon the Sudan to undertake immediate action to extradite to Ethiopia for prosecution the suspects sheltering in the Sudan, while the OAU Mechanism in its statement urges the Sudanese Government to look for, locate and then extradite them to Ethiopia.

7. The measures that were taken by the Sudan and those that it is still taking confirm its full compliance with the OAU decision, although the suspects have yet to be found because of the paucity of the information available and its being withheld by Ethiopia in its failure to cooperate with the Sudan in this respect. The Sudan will continue its efforts in the hope of receiving the information being retained by Ethiopia concerning the suspects.

8. The report is reticent in adducing the efforts of the Secretary-General of OAU, and it does not implement paragraph 7 of the Security Council resolution in a rational manner. The Council might have been expected to have been informed of the results achieved by the two missions of the OAU Secretary-General to the Sudan in implementation of the OAU decisions on the issue. The Sudan also hopes that, in the contacts of the Envoy of the Secretary-General with the Secretary-General of OAU, account will be taken of the invitation addressed by the Minister for Foreign Affairs of the Sudan to Mr. Salim to visit the Sudan and to form an OAU fact-finding mission with the participation of the African States concerned in order to investigate the allegations of Egypt, Ethiopia, Uganda and Eritrea that there are camps for the training of terrorists in Sudanese territory. If this were to happen, it would be testimony that the Sudan is innocent of charges of harbouring terrorism.

9. The Sudan has noted with much regret that the mission of the Envoy of the Secretary-General included visits to countries that were selected not because

they are neighbours of the Sudan but because of their involvement in a scheme managed by outside forces for the purpose of undermining the stability of the Sudan and weaving and fabricating allegations in order to accuse it of sheltering and assisting terrorist activities. The selection prompts one to wonder what the reasons were that visits to the other countries that are neighbours of the Sudan were not included, countries such as Kenya, the Libyan Arab Jamahiriya, Chad, the Central African Republic, Zaire and the Kingdom of Saudi Arabia, particularly since the side heading in the report reads "Consultations with the Sudan's neighbours and others".

10. Paragraph 4 (b) of the Security Council resolution ought to have been used in a balanced manner in order to pursue criteria of fairness and diversified sources of information and so that the report might be complete. Visits by the Secretary-General's Envoy to all of the countries that are neighbours of the Sudan would also have provided the international community in general and the Security Council in particular with a clearer view of the Sudan's commitment to the principles of good-neighbourliness and non-interference in the internal affairs of other States and of its promotion of relations of regional cooperation in all its forms for the benefit and well-being of the peoples of the region, and the international community would have been able to ascertain that the Sudan is the victim of external aggression in which some of its neighbours are participating.

11. Ethiopia's reiteration of the claim that it approached the Security Council only after it had failed to resolve the matter at the bilateral level or within the OAU is devoid of logic. Why did Ethiopia approach the OAU while the Sudan was waiting to be provided with the "confidential" information being retained by Ethiopia concerning the three suspects? Why did it approach the Council on the same day the OAU Mechanism for Conflict Prevention, Management and Resolution issued its statement urging the Sudan to look for, locate and extradite the suspects? Ethiopia would be better advised not to seek to deceive the international community but to be frank with it in regard to its prior decision to condemn the Sudan by arranging to raise the issue in the OAU Mechanism in a hasty manner as a preliminary step towards referring the matter to the Security Council in the framework of the scheme aimed at "containing the Sudan through its neighbours".

12. Ethiopia's failure to respond to the Sudan's invitation to send an investigating team to work alongside the Sudanese team and its withholding of "overwhelming material and human evidence, which could not be divulged for reasons of security" confirm the conspiracy against the Sudan by means of allegations that have no basis, such as that "the Sudanese authorities knew about the whereabouts of the suspects" and that "requests for additional information were merely delaying tactics". The Sudan opens its doors to whoever claims to know the location of the suspects so that they may indicate where that is, and the Sudan is committed to taking action to arrest them immediately and extradite them to Ethiopia.

13. Ethiopia's alleged concern for friendly relations with the Sudan is incompatible with its actions. In December 1995, Ethiopia attacked five Sudanese posts, occupied them and killed those manning them. It then opened the

doors for the rebel movement to operate from its territory with the objective of destroying the unity of the Sudan and undermining its stability.

14. The Sudan views the allegations made against it by the President of Eritrea with great disappointment, and he has become a living example of ingratitude. The Sudanese people took much from its capacities and resources in order to be able to support the Eritrean cause. There still remain more than half a million refugees belonging to the fraternal Eritrean people for whom the Sudan acts as host. The Eritrean President surprised the international community with the letter, circulated in document S/1994/34, in which he heaps abuse on the Sudan, imagining that the international community can forget the constant support provided by the Sudan to Eritrea. The allegation of the Government of Eritrea that the Sudan is recruiting refugees in their camps implies an accusation against the Office of the United Nations High Commissioner for Refugees (UNHCR), which oversees these camps. UNHCR is fully aware of the Sudan's cooperation in the repatriation of these refugees, particularly after their country achieved independence and international support for their relief was suspended. It also knows that the Eritrean Government has failed to meet its responsibilities and has welcomed back only those of its refugees whose political allegiance to the ruling party, the Eritrean People's Liberation Front, can be ascertained.

15. For reasons known to the international community, Eritrea invented the refugee issue in order to find itself a justification for bringing its relations with the Sudan to the point of complete rupture, inasmuch as it decided unilaterally to sever diplomatic relations. Eritrea has ignored the customs and covenants that govern relations between States. Its President publicly announced his decision to arm the insurgency and the Sudanese opposition in order to alter the system of government in the Sudan, in flagrant violation of international law and international covenants. The regime in Eritrea has persisted in its hostility to the Sudan and has placed its airfields at the service of those countries supplying the insurgency with weapons. Eritrean troops have participated in the civil war in the Sudan, and some have been captured with the rebels. The Sudan knows that its relationship with Eritrea was sold at a very low price.

16. Uganda's claim that the Sudan is supporting two Ugandan rebel movements is refuted by the actual state of affairs. How can the Sudan provide support to rebels in Uganda when the rebel movement in the southern Sudan controls the approaches to the common border? All documented sources, including those of the information media and the international relief organizations, have confirmed that it is Uganda that provides support and that it is the major source arming the insurgency and supplying it with men and logistic, military and political support and providing transit access to all the forces and parties that are supporting the insurgency. Uganda has not been content with this role but also participated with its forces, tanks and heavy weapons in launching aggression against the southern Sudan in October 1995. Some of the tanks and vehicles have been kept as evidence of Uganda's involvement in the aggression against the Sudan.

17. Uganda's statement that it had permitted Sudanese monitoring teams on its border with the Sudan represents a half-truth. Although Uganda agreed that a monitoring team composed of seven Sudanese soldiers could be stationed at a

point inside its territory, it saw to it that they were far from the roads used to transport supplies to the insurgency in the southern Sudan. This made the team's presence worthless, and it was withdrawn by the Sudan. The matter of the monitoring team is one of the links in the Ugandan scheme to camouflage its support to the insurgency in the southern Sudan.

18. The Sudan has never been and will never be a party to any attempted assassination, particularly that of Egyptian President Hosni Mubarak. Through the words of its own President, it condemned the attempt made on the very day it occurred in Addis Ababa. In keeping with its principle of non-interference in the affairs of others and in affirmation of its relations of brotherhood, the Sudan harbours great friendship for Egypt and continues to make an effort to demonstrate its benevolent intentions towards Egypt. The Sudan is, moreover, preoccupied with its internal concerns in confronting the challenges of the civil war and the problems of reconstruction and development that it has taken upon itself to resolve. The claim that the Sudan is promoting acts of violence in Egypt has continued to be made since the present Government came to power in the Sudan without being supported by any evidence or justification. In this category is included the allegation that there are arms caches in Egypt and that the source of the arms is the Sudan. The Sudan is not an arms-producing country and its economic situation does not allow it the possibility of purchasing quantities of weapons in excess of its needs for self-defence purposes in order to present them to groups outside the country.

19. The statement that Egypt has information about the three suspects but that "details about the sources of such information could not be divulged for reasons of confidentiality" does not advance the argument that Egypt should refrain from providing the Sudan with the information relating to the suspects for the sake of seriousness in the endeavour to arrest them. What the Sudan is asking for is the information and not the sources of the information.

20. It had been hoped that Egypt would respond positively to Sudan's invitation to send an investigating team to assist the Sudanese team. On 23 October 1995, the Sudanese Minister for Foreign Affairs extended an invitation to his Egyptian counterpart to send an investigating team, thus relinquishing rights of sovereignty with respect to these cases. Egypt did not respond to this invitation. The historical relations between the two countries do not require an intermediary, as Egypt does in claiming that the source of the information it has on the suspects is Ethiopia.

21. The inclusion of Tunisia in the itinerary of the Special Envoy of the Secretary-General represents an attempt to find anything that might indicate the presence of tension in the Sudan's relations with any country in the world in order to support the allegations made in paragraph 4 (b) of resolution 1044 (1996). Tunisia has affirmed that it is not being subjected to any hostile activity on the part of the Sudan. For its part, the Sudan affirms that it has not been a party to any action aimed at undermining the stability of Tunisia, from which it is separated by thousands of miles.

22. The Special Envoy of the Secretary-General was able to meet with all relevant officials in the Sudan, including the President of the Republic. He was likewise able to ascertain the Sudan's seriousness in acting to implement

the resolution of the Security Council despite its conviction that the resolution is unjust and based on false and unfounded allegations. The Sudan adheres to the commitment that it announced before the Security Council that it would continue to do everything in its power to find the suspects in the hope that it would receive the information from the parties concerned and have their cooperation in such a manner as to help it achieve that goal.

23. The Sudan handed over to the Special Envoy a complete dossier covering the steps it had taken since it had received the Ethiopian request and following the decisions of the OAU Mechanism for Conflict Prevention, Management and Resolution and the resolution adopted by the Security Council. It also informed him of all the measures the Sudan had taken and was continuing to take, most significantly the declaration by the President of the Republic in which he affirmed in a manner that leaves no room for doubt that there are no links between the Sudan and Islamic groups with which the Sudan differs ideologically.

24. In this connection, the Special Envoy was given the option of visiting the camps of the Sudanese People's Defence forces that Egypt, Ethiopia, Uganda and Eritrea have claimed are being used to train their opponents. However, given that the Special Envoy declined because of the military nature of such an undertaking, a field with which he was not familiar, the President of the Republic proposed to him that the Secretary-General might send a military fact-finding mission to investigate the allegations that there are terrorist elements in these camps or in other places in the Sudan.

25. The commission of inquiry pursued its work in accordance with the information in its possession before and after the adoption of Security Council resolution 1044 (1996). It had an announcement published in the information media and posted in public places requesting the surrender of those sought to the nearest police station. All Egyptian nationals residing in the Sudan, other than bearers of diplomatic passports, were registered. The commission also requested information concerning those sought from the International Criminal Police Organization (ICPO-Interpol), which, on 15 February 1996, informed it that it had no information in their regard. The Minister of the Interior issued a directive to the provincial and local authorities and the popular authorities to search for the suspects. On 26 February 1996 a monetary reward was announced for whoever provided assistance in their arrest. The commission also followed up information that became available that a person had arrived at Khartoum Airport on 26 June 1995 under the name Faysal Lutfi Abd al-Latif and had not proceeded to his place of residence as entered on his Khartoum Airport entry card. It also transpired that the passport he was carrying was a forgery. On the other hand, the commission did not develop any information concerning the admission to the country of the two other suspects, Mustafa Hamzah and Yasim or Izzat. Despite its failure to obtain additional information concerning the three suspects, the commission has continued its work in implementation of the resolution of the Security Council and the two OAU decisions.

26. The Sudan renews its invitation to the Secretary-General to send a Special Envoy to follow up his efforts in the Sudan and to send a military fact-finding mission to investigate the allegations that terrorists are being trained in the Sudan.

Comments on the observations

27. The report proceeds by referring to and adducing the statements of Ethiopia, Egypt, Uganda, Eritrea and Tunisia as if they were facts, while the views of the Sudan are referred to as claims or allegations. This mode of presentation violates the principle of equality and fairness between Member States, particularly States that are parties to a dispute.

28. The report draws the conclusion that the exhaustive information gathered by Ethiopia from the three arrested on suspicion of participating in the attempt has convinced Ethiopia "beyond doubt that the Sudan is sheltering the suspects". The Special Envoy, in addressing an issue of such sensitivity, would have been better advised to endeavour to verify the situation directly with the suspects on the basis of whose statements Ethiopia's claims are made by interviewing them in their prisons in Ethiopia for this purpose. Certain information available to the Sudan indicates that the alleged detainees are none other than members of the security service of a State that is a party to the dispute. Moreover, accepting that Ethiopia "is understandably anxious to protect the confidentiality of its sources of information and reluctant to reveal them" means that the Security Council has to depend on what States deem appropriate and on what serves their interests and not on what might promote respect for the Charter of the United Nations and international law and secure justice and equality.

29. The conclusion reached in paragraph 31 of the report of the Secretary-General expresses an erroneous view that does not take account of the facts and considerations that arose in the meetings of the Special Envoy in the Sudan, which confirm the country's compliance with the OAU decision of December 1995 urging the Sudan to look for, locate and extradite the suspects to Ethiopia. The Sudan, which has expended enormous effort, time and financial resources since the adoption of resolution 1044 (1996), as described in paragraph 25 above, cannot be characterized as not having complied with that resolution, unless compliance means the Sudan doing the impossible, since it is continuing to look for the three suspects and has not yet found them. When it does find them, there can be no doubt that the Sudan will extradite them to Ethiopia forthwith.

30. The conclusion, also stated in paragraph 31, that all the neighbours of the Sudan visited by the Special Envoy have accused the Sudan of supporting terrorist activities within their territories also skirts the truth and does not take account of the material evidence presented by the Sudan to the Special Envoy, as exemplified by the documentary evidence and video tapes showing attacks by Egypt, Ethiopia, Eritrea and Uganda against the Sudan. It is regrettable that the conclusion gives the impression that the allegations of all the enemies of the Sudan, even if groundless, are to be relied on and that all the material evidence presented by the Sudan of their attacks on it are not to be relied on. We hope that the scales of justice will be used, that the principle of equality between States will not be ignored and that the accused will be innocent until proved guilty.

31. We hope for a positive response to the proposal of the President of the Republic inviting the Secretary-General to send a Special Envoy to the Sudan and

a military fact-finding mission to investigate the allegations of the States in question concerning the training of terrorists in the Sudan. We are confident that a proposal of such seriousness issuing from the Head of State will receive the appropriate attention.

32. Regardless of its comments on his report, the Sudan once again affirms that it will cooperate with the Secretary-General with a view to clarifying the facts relating to the occasion for Security Council resolution 1044 (1996).

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LETTER DATED 14 MARCH 1996 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to resolution 1011 (1995), adopted by the Security Council on 16 August 1995, regarding the situation in Rwanda. In paragraph 12 of that resolution, I was requested to report to the Council within six months of the date of its adoption, regarding, in particular, the export of arms and related matériel to the Government of Rwanda, on the basis of reports submitted by the Committee established pursuant to resolution 918 (1994) concerning Rwanda.

Accordingly, I wish to inform you that during this period, the Committee established pursuant to resolution 918 (1994) concerning Rwanda has received no notifications concerning the export to, or the import by, the Government of Rwanda of arms and related matériel. However, a notification was received on 12 February 1996 from the Government of Singapore informing the Committee that it had exported spare parts for vehicles for use by the Ministry of Defence of Rwanda. Before notifying the Security Council, the Committee has requested from the Government of Singapore additional information concerning this export.

(Signed) Boutros BOUTROS-GHALI

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